79-1563

Supreme Court, U. S.
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No.

IN THE

SUPREME COURT

OF THE

UNITED STATES

OCTOBER TERM, 1979

YAKIMA COUNTY DEPUTY SHERIFF'S ASSOCIATION,
a Washington non-profit corporation,
Appellant,

vs.

BOARD OF COMMISSIONERS FOR YAKIMA COUNTY,
WASHINGTON, presently composed of LES CONRAD,
CHARLES RICH AND GRAHAM TOLLEFSON,
Appellees.

ON APPEAL FROM THE SUPREME COURT
OF WASHINGTON

JURISDICTIONAL STATEMENT

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Appellees.

ON APPEAL FROM THE SUPREME COURT
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JURISDICTIONAL STATEMENT

The Yakima County Deputy Sheriff's Association, the Appellant, appeals from the final judgment of the Supreme Court of the State of Washington, dated January 11, 1980, holding that certain sections of the Washington State Public Employees Collective Bargaining Act [Chapter 41.56 of the Revised Code of Washington, specifically RCW 41.56.030(6)] did not violate the Appellant's right to equal protection of the law as found in the equal protection clause of the Fourteenth Amendment to the United States Constitution, as applied to the facts in this case.

OPINION BELOW

The opinion of the Supreme Court of the State of Washington, which appears in the appendix hereto, p. A-11, *infra*, is reported at 92 Wn.2d 831, 601 P.2d 537 (Washington, 1979).

The opinion of the Supreme Court of the State of Washington was filed on October 25, 1979. The Appellant timely filed a motion for reconsideration. The order denying the motion for reconsideration was entered on January 11, 1980 and the review of the Supreme Court of the State of Washington was thus terminated on January 11, 1980. See page A-28, *infra*.

This appeal is being docketed in this Court within ninety days from the denial of the motion for reconsideration below. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(2).

QUESTION PRESENTED

Whether § 41.56.030(6) of the Revised Code of Washington violates the equal protection clause of the Fourteenth Amendment of the Constitution of the United States by limiting the procedures of mediation, fact-finding and arbitration under the Washington Public Employees Collective Bargaining Act (Chapter 4156 of the Revised Code of Washington) to only those "uniformed personnel" employed by AA counties, (having a population of over 500,000) or employed by cities of a population in excess of 15,000.

CONSTITUTIONAL PROVISIONS INVOLVED

Fourteenth Amendment, United States Constitution:

Section 1. . . . No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; *nor deny to any person within its jurisdiction the equal protection of the laws.* (Emphasis added)

STATE STATUTE INVOLVED

Section 41.56.030 of the Revised Code of Washington provides as follows:

41.56.030, *Definitions.* As used in this Chapter:

. . . .

(6) "Uniformed personnel" means (a) law enforcement officers as defined in RCW 41.26.030 as now or hereafter amended, of cities with a population of fifteen thousand or more or law enforcement officers employed by the governing body of AA counties or (b) fire fighters as that term is defined in RCW 41.26.030, as now or hereafter amended.

RAISING THE FEDERAL QUESTION

The claim that the definition section [RCW 41.56-.030(6)] of the Public Employees Collective Bargaining Act of the State of Washington (Chapter 41.56 of the Revised Code of Washington) violated the equal protection clause of the Fourteenth Amendment to the United States Constitution was initially raised in the Appellant's first pleading, a Complaint for Declara-

tory Judgment. Paragraph VII of the Complaint alleged that the above-cited statute was "in violation of the Association's and its members' rights to equal protection . . . contrary to the Washington State and the United States Constitutions."

This claim was again raised in the Appellant's Memorandum of Points and Authorities which was filed with the trial court at the time of the hearing on the declaratory judgment complaint, May 10, 1978. The conclusion of law entered by the trial court on July 14, 1978 found that the above-referenced section of the Washington State Public Employees Collective Bargaining Act violated the Fourteenth Amendment to the United States Constitution.

On appeal to the Supreme Court of the State of Washington, the Appellant maintained its claim that the above-referenced statute violated the equal protection clause of the Fourteenth Amendment of the United States Constitution.

The opinion of the Supreme Court of the State of Washington noted:

> The precise issue here, therefore, is whether the exclusion of non-AA deputy sheriffs from PECBA's [Public Employees Collective Bargaining Act] mandatory mediation, fact-finding and arbitration provisions violates the equal protection clause of the Federal Fourteenth Amendment and the privilege and immunities clause of the State Constitution. (Const. Art. 1, § 12). We hold that it does not and reverse. 92 Wn.2d at 834 (1979).

Thus the Supreme Court of the State of Washington recognized that the Appellant's claim was one alleging a violation of the Fourteenth Amendment to the Constitution of the United States and thus a Federal Constitution claim was raised at all times below and recognized by all courts hearing the case.

STATEMENT OF THE CASE

On July 14, 1977, the Appellant, Yakima County Deputy Sheriff's Association, filed a Complaint for Declaratory Judgment asking that RCW 41.56.030(6) be declared unconstitutional as violative of the Fourteenth Amendment of the United States Constitution insofar as the statute denied equal protection of the law to Appellant's members. The Appellant, a non-profit corporation, is the bargaining representative of the deputy sheriffs employed by Yakima County, population ca. 155,000.

The statute that was questioned, RCW 41.56.030-(6), is the definition section of the Washington State Public Employees Collective Bargaining Act. This subsection of the definition statute defines the term "uniformed personnel" to include only those law enforcement officers in cities within the State of Washington having a population of 15,000 or more, or law enforcement officers of what are known as AA counties, which are counties having a population in excess of 500,000. By virtue of the fact that Yakima County is a first-class

county, and not a AA county, the definition section thus excluded them from the definition of "uniformed personnel." This resulted in certain benefits under the Public Employees Collective Bargaining Act not being available to the members of the Appellant. One of these benefits is that disputes arising during collective bargaining between public employees and their employer are subject to the procedures of mediation, fact-finding and arbitration. These procedures are mandatory upon the passage of certain time limits. See RCW 41.56.450.

One of the purposes of the Public Employees Collective Bargaining Act is to provide an alternative means of resolving disputes between public employees and their employers other than strikes. This is set forth in RCW 41.56.430. Additionally, the right of uniformed personnel to engage in strikes is specifically prohibited by RCW 41.56.490.

It is the Appellant's position that by excluding Appellant's membership from the benefits of RCW 41.56, the Washington legislature has acted arbitrarily, capriciously and without a rational basis, and thus violated their right to the equal protection of the laws as prescribed by the Fourteenth Amendment to the United States Constitution.

The trial concerning the Appellant's complaint for declaratory judgment was held before the Honorable Walter A. Stauffacher, Judge of the Superior Court of

Yakima County, State of Washington, on May 10, 1978. Prior to that hearing, on May 8, 1978, the Appellant and Appellees entered into a stipulation of facts which was filed with the trial court.

The essential parts of that stipulation read as follows:

> 1. That (sic) all times material hereto, Plaintiff, Yakima County Deputy Sheriff's Association was and now is a non-profit corporation organized and existing under the laws of the State of Washington with all license fees having been paid.
>
> 2. That at all times material hereto, Plaintiff has been and now is the duly authorized and recognized sole and exclusive bargaining agent for all commissioned Deputy Sheriffs, security personnel, and office clerical personnel up to and including the rank of Sergeant, employed by the Yakima County Sheriff's Department.
>
> 3. That at all times material hereto, Defendant, Board of Commissioners for Yakima County, Washington, was and now is responsible for negotiating with Plaintiff relative to the terms and conditions under which members of Plaintiff are employed, and is responsible for the execution of the necessary contractual documents to so implement and effectuate any and all agreements reached with regard thereto.
>
> 4. That over the past several years, Plaintiff and Defendant have carried on lengthy and protracted negotiations. That relative to the contract executed by and between Plaintiff and Defendant covering the period from January 1, 1977 through December 31, 1977, negotiations commenced on September 21, 1976; that due to the inability of the parties to reach an agreement, a mediator from the Public Employees' Relations Commission with the State of

Washington was called in on a voluntary basis by the parties; thereafter, a Memorandum Agreement was executed on March 14, 1977; finally, the formal and final comprehensive Agreement was executed on June 7, 1977.

5. That on June 15, 1977, Plaintiff formally requested that negotiations commence with Defendant relative to the provisions to be contained in a contract to be effective January 1, 1978. That negotiations commenced on August 25, 1977. That once again, the parties reached an impasse as to a number of matters at issue and a mediator from the Public Employees' Relations Commission was requested in January, 1978. After two sessions with the Mediator, a Memorandum Agreement was executed on March 8, 1978, effective retroactive to January 1, 1978. Notwithstanding the mediation, Plaintiff was unable to obtain agrement from Defendant as to a number of issues regarded as essential by Plaintiff. With such reservations, the negotiated contract was ratified by the membership of Plaintiff.

6. That RCW 41.56 is the Public Employees' Collective Bargaining Act, but for certain language limiting the applicability of said Act, the provisions thereof relative to mediation, fact-finding, and arbitration would be available for the resolving of disputes between Plaintiff and Defendant arising in the course of their collective bargaining. Said provision in relevant part as contained in RCW 41.56-.030(6) reads as follows:

> 'Uniformed Personnel' means (a) law enforcement officers as defined in RCW 41.26.030 as now or hereafter amended ,of cities with a population of 15,000 or more or law enforcement officers employed by the governing body of AA counties; or (b) firefighters as that term is defined in RCW 41.26.030 as now or hereafter amended.

7. That Yakima County is a First Class County and

thus said statutory limitation operates to preclude the availability of the said mediation, fact-finding, and arbitration procedures to the Association. That Yakima County has a population of more than 15,000 persons. In fact, the current population of said County approximates 150,000 persons.

8. That at all times material hereto, Defendant has adhered to the position that it is not required to submit unresolved matters at issue between Plaintiff and Defendant in the course of their collective bargaining to the processes of mediation, fact-finding, and final and binding arbitration under the provisions of RCW 41.56.440 et seq.

In addition to the stipulated facts, the court also heard two witnesses who were members of the Appellant. These witnesses' testimony was offered for the purpose of establishing that the duties of deputy sheriffs in the Yakima County Sheriff's office and police officers in the City of Yakima Police Department [a city with a population in excess of 15,000, which thus came within the definition of "uniformed personnel" found in RCW 41.56.030(6)] were essentially similar. Consequently, there was therefore no rational basis for distinguishing between city policemen and deputy sheriffs for the purpose of the Public Employees Collective Bargaining Act.

After considering the stipulation of facts, the testimony of the witnesses, and hearing argument of counsel, Judge Stauffacher delivered his oral opinion from the bench on June 21, 1978.

On July 14, 1978, formal written findings of fact

and conclusions of law and a written judgment in favor of the Appellant were entered by Judge Stauffacher. The judgment required the Appellees to comply with the Public Employees Collective Bargaining Act, and in particular, to comply with those sections of the act which required fact-finding, mediation and binding arbitration.

On July 27, 1978, the Appellees filed a notice of appeal to the Washington Court of Appeals. On August 11, 1978, the Appellees filed a motion to stay the judgment of the trial court. This motion was argued to a court commissioner of the Washington Court of Appeals on August 30, 1978. The court commissioner ruled on September 29, 1978 that the motion would be denied. However the court commissioner ruled that if negotiations between the Appellant and Appellee resulted in mediation, fact-finding and binding arbitration, that any arbitration award would not be effective until a final determination of the appeal. On February 15, 1979, the Appellant filed a motion for transfer of the case from the Washington Court of Appeals to the Washington Supreme Court, seeking direct review by the Washington Supreme Court. On March 15, 1979, Chief Justice Robert Utter of the Washington Supreme Court entered an order granting the Appellant's motion to transfer the case to the Washington Supreme Court.

The matter then continued through the appellate

process with the final decision being the order denying the Appellant's motion for reconsideration which was entered on January 11, 1980. The Supreme Court reversed the findings, conclusions and judgment of the trial court and found that there had been no violation of the equal protection clause of the Fourteenth Amendment to the United States Constitution. It is from that decision that this appeal is taken.

THE QUESTION IS SUBSTANTIAL

This challenge to the definition of "uniformed personnel" found in RCW 41.56.030(6) is substantial as it affects the employment rights of the vast majority of deputy sheriffs in the State of Washington. Since the definition in the statute only applies to law enforcement officers employed by the governing bodies of AA counties, and since there is only one class AA county in the State of Washington (King County), all other deputy sheriffs within the State are without the mandatory mediation, fact-finding and binding arbitration procedures set forth in Chapter 41.56 of the Revised Code of Washington.

Contrasted against these deputy sheriffs' plight is the situation of their police counterparts in cities with a population of over 15,000 or firefighters employed by any government agency. This has resulted in the absurd result that the deputy sheriffs in Yakima County, which has a population of over 150,000, do not have the

same collective bargaining rights as their counterparts employed by the City of Yakima. The City of Yakima Police Department and the Yakima County Sheriff's office are located directly across the street from one another. Similar situations arise in other counties throughout the State of Washington. The Appellant asks what rational justification is there for this disparity of treatment under the Public Employees Collective Bargaining Act of the State of Washington.

One of the purposes of the Public Employees Collective Bargaining Act is to provide an alternative means of settling disputes between public employees and their employer, since there exists the public policy in the State of Washington against strikes by "uniformed personnel." See RCW 41.56.430. A statute, RCW 41.56.490, specifically provides that the right of uniformed employees to engage in any strike, work slowdown or stoppage is not granted.

The prohibition against strikes by public employees is well-recognized. "In the absence of statute, public employees do not have the right to engage in concerted work stoppages for any purpose." 48A Am. Jur. 2d 407, Labor and Labor Relations, § 2026, Public Employees.

This prohibition against strikes by public employees was recognized by the Washington Supreme Court in *Port of Seattle v. International Longshoremen's and*

Warehousemen's Union, 52 Wn.2d 317, 324 P.2d 1099 (1957). In the *Port of Seattle* case, the Washington Supreme Court upheld the trial court's issuance of an injunction which prohibited picketing in front of the Port of Seattle's facilities. It is against this background that the alternative means of resolving disputes prescribed by the Washington Public Employees Collective Bargaining Act, RCW 41.56, must be viewed.

It should be noted that paragraph eight of the Findings of Fact by the trial court, page A-4, *infra*, found that the "duties, functions and responsibilities of the said departments [the Yakima County Sheriff's Department and the City of Yakima Police Department] are essentially the same." Page A-4, *infra*. Given the similarity of duties, what rational basis exists for granting one department the access to procedures under the Public Employees Collective Bargaining Act and for denying the other department the same rights?

A similar case, concerning whether "county detectives" were "policemen" within the meaning of a Pennsylvania collective bargaining statute, is *County of Allegheny v. Hartshorn*, 9 Pa. Cmwlth. 132, 304 A. 2d 716 (1973). The case involved efforts by the county detectives in Allegheny County to engage in collective bargaining, which included binding arbitration, under a Pennsylvania statute. The County Commissioners of Allegheny County ignored the request by the county

detectives. The county detectives then filed a Complaint in Mandamus, seeking to compel the County Commissioners to engage in binding arbitration. The County Commissioners' position was that the county detectives did not fit within the definition of "policemen" in the collective bargaining statute and thus were not entitled to the procedures of the collective bargaining statute.

The findings by the trial court in the *County of of Allegheny, supra,* case were that the county detectives provided exactly the same functions as the detectives employed by the cities of Pittsburgh and McKeesport. Finding their duties essentially similar to those of "policemen", the trial court found that the "county detectives" fit within the definition of "policemen" and thus were entitled to proceed under the Pennsylvania collective bargaining statute and to engage in binding arbitration with the County Commissioners. See 304 A. 2d 719-720.

Although the *County of Allegheny, supra,* case was not decided on equal protection grounds, it does point to the irrationality of the County Commissioners preferring form over substance. Appellant would submit that the instant case is similar in that the Appellant's members perform the same duties as those "uniformed personnel" in the protected class and thus it is irrational to exclude them from the benefits of the Washington Public Employees Collective Bargaining Act,

especially when the purpose of the act is to provide an alternative means of resolving disputes for uniformed personnel.

The Washington State Supreme Court has recognized that a strike by police or firefighters is a matter of state-wide concern. In *Spokane v. Spokane Police Guild,* 87 Wn.2d 457, 553 P.2d 1316 (Wash., 1976), the court stated:

> It is readily apparent that strikes by police and firefighters for any reasons, which place public health and safety in immediate danger, are a matter which concerns the State at large and not merely a particular municipality. 87 Wn.2d at 462, 553 P.2d at 1321.

The Appellant questions how the purpose of the Public Employees Collective Bargaining Act is served by excluding the vast majority of deputy sheriffs throughout the State of Washington from the alternative means of resolving disputes provided by the mediation, fact-finding and arbitration procedures set forth in the act.

Because the decision of the Supreme Court of the State of Washington upholds the exclusion of the vast majority of deputy sheriffs from the mediation, fact-finding and binding arbitration procedures of the act, the Appellant submits that the question of their coverage is substantial.

For a state statute to be upheld against a charge that it violates the equal protection clause of the Four-

teenth Amendment, the statute must be reasonable, that is, not arbitrary, and bear a rational relationship to a permissible state objective. See *Bell Terre v. Borass*, 416 U.S. 1, 8, 39 L.Ed. 2d 797, 94 S.Ct. 1536 (1974). A state statute will be overturned as violative of the equal protection clause if the varying treatment of different groups or persons is so unrelated to the achievement of any combination of legitimate purposes that the court can only conclude that the legislature's action was irrational. *Vance v. Bradley*, __ U.S. __, 58 L.Ed. 2d 171, 99 S.Ct. 939, 943 (1979).

Although equal protection of laws does not totally prevent legislative classification, it does require the existence of reasonable grounds for making a distinction between those within and those outside a designated class. See *Kinney v. Kaiser Aluminum*, 41 Ohio St. 2d 120, 70 Ohio Ops 2d 206, 322 N.E. 2d 880 (1975).

The Appellant submits that the exclusion of the Appellant's members from the definition of "uniformed personnel" in RCW 41.56.030 bears no relationship to the purpose of the Washington Public Employees Collective Bargaining Act, Chapter 41.56 of the Revised Code of Washington. In fact, the Appellant submits that this exclusion of its members is contrary to and destructive of the purpose of the Public Employees Collective Bargaining Act. By excluding the Appellant's members, and the deputy sheriffs in the vast majority

of the counties in the State of Washington, from the class of "uniformed personnel" who are entitled to the benefits of the Public Employees Collective Bargaining Act, the Appellant submits that the Washington legislature has acted arbitrarily, without a rational basis, and has frustrated its own objectives set forth in the Public Employees Collective Bargaining Act.

For the above reasons, the Appellant submits that question presented in this case is substantial and should be addressed by this court.

CONCLUSION

The Appellant submits that for the above-cited reasons, and based on the above-cited authorities, this court should note probable jurisdiction of this appeal.

RESPECTFULLY SUBMITTED this 31st day of March, 1980.

DAVID A. THORNER
Thorner, Almon, Kennedy
& Gano P.S.
Counsel for Appellant

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IN THE SUPERIOR COURT OF THE
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YAKIMA COUNTY DEPUTY SHERIFF'S ASSOCIATION,
a Washington non-profit corporation,
Plaintiff,

vs.

BOARD OF COMMISSIONERS FOR YAKIMA COUNTY,
WASHINGTON, presently composed of LES CONRAD,
CHARLES RICH AND GRAHAM TOLLEFSON,
Defendant.

No. 77-2-00973-6

FINDINGS OF FACT AND CONCLUSIONS OF LAW

THIS MATTER having regularly come on for hearing before the undersigned judge of this court on the 10th day of May, 1978, pursuant to the Complaint for Declaratory Judgment on file herein, plaintiff appearing by and through its attorney of record, David A. Thorner of Thorner, Kennedy & Gano P.S. and the defendant appearing by and through its attorney of record, Jeffrey C. Sullivan, Prosecuting Attorney, and the court having considered testimony presented, the Stipulation Re Facts For Consideration by Court, the argument of counsel and the files and records herein, and the court having rendered its decision as declared from the bench on the 21st day of June, 1978, and the court hereby incorporating by said reference the con-

tents of its opinion so delivered, and being otherwise fully advised in the premises, now, therefore, the court now enters the following

FINDINGS OF FACT

1.

That at all times material hereto, Plaintiff, Yakima County Deputy Sheriff's Association, was and now is a non-profit corporation organized and existing under the laws of the State of Washington with all license fees having been paid.

2.

That at all times material hereto, Plaintiff has been and now is the duly authorized and recognized sole and exclusive bargaining agent for all commissioned Deputy Sheriffs, security personnel ,office clerical personnel up to and including the rank of Sergeant, employed (sic) the Yakima County Sheriff's Department.

3.

That at all times material hereto, Defendant, Board of Commissioners for Yakima County, Washington, and (sic) was and now is responsible for negotiating with Plaintiff relative to the terms and conditions under which members of plaintiff are employed, and is responsible for the execution of the necessary contractual documents to so implement and effectuate any and all agreements reached with regard thereto.

4.

That RCW 41.56 is the Public Employees' Collective Bargaining Act, but for certain language limiting the applicability of said Act, the provisions thereof relative to mediation, fact-finding, and arbitration would be available for the resolving of disputes between Plaintiff and Defendant arising in the course of their collective bargaining. Said provision in relevant part as contained in RCW 41.56.030(6) reads as follows:

> " 'Uniformed Personnel' means (a) law enforcement officers as defined in RCW 41.26.030 as now or hereafter amended, of cities with a population of 15,000 or more or law enforcement officers employed by the governing body of AA counties; or (b) firefighters as that term is defined in RCW 41.26.030 as now or hereafter amended."

5.

That Yakima County is a First Class County and thus the said statutory limitation operates to preclude the availability of the said mediation, factfinding, and arbitration procedures to the Association. That Yakima County has a population of more than 15,000 persons. In fact, the current population of said County approximates 150,000 persons.

6.

That at all times material hereto, Defendant has adhered to the position that it is not required to submit unresolved matters at issue between Plaintiff and Defendant in the course of their collective bargaining to

the processes of mediation, fact-finding, and final and binding arbitration under the provisions of RCW 41-.56.440 et. seq.

7.

Plaintiff properly served the Attorney General of the State of Washington pursuant to RCW 7.4.110 of the Declaratory Judgments Act.

8.

That the City of Yakima Police Department currently employs 116 persons serving a population of 50,000 people. That the Yakima County Sheriff's Department currently employs 128 persons. That the duties, functions and responsibilities of the said departments are essentially the same.

9.

That there are only two AA counties in the State of Washington, namely: King and Spokane.

10.

That the State Legislature in 1973 was concerned with promotion of the applicable public policy in this State without regard to the varying populations of counties and cities as reflected in RCW 41.56.430 which reads as follows:

> "The intent and purpose of *this 1973 amendatory act is to recognize that there exists a public policy in the state of Washington against strikes by uniformed personnel as a means of settling their labor disputes; that the uninterrupted and dedicated service of these classes of employees is vital to the

> welfare and public safety of the state of Washington; that to promote such dedicated and uninterrupted public sevice there should exist an effective and adequate alternative means of settling disputes."

11.

That to assume that the availability and utilization of the procedures of mediation, fact-finding and arbitration will lead to an increase in wages, and other benefits paid to uniformed personnel is not justified, especially in light of the standards or guidelines set forth in RCW 41.56.460 to be followed by arbitration panels in resolving disputes.

12.

That the primary purpose of the Public Employees' Collective Bargaining Act is regulation notwithstanding the possibility of an increased tax burden that may be imposed upon cities or counties as a result of the application of said statute. That the statute properly takes into consideration such variances as among and between cities and counties.

13.

That the smaller counties and cities and their respective governmental officials are no less competent or sophisticated than their counterparts in the largest counties and cities of this state, especially when considered in light of the availability of instant communication and diversity of resources available to all gov-

ernmental entities in the State of Washington.

From the foregoing Findings of Fact, the Court now enters the following:

CONCLUSIONS OF LAW

1. That this court has jurisdiction over the parties and subject matter of this action pursuant to the Declaratory Judgments Act (RCW 7.24).

2. That the population criteria set forth as to law enforcement officers in RCW 41.56.030(6) is not a reasonable basis for and of classification in that law enforcement officers and firefighters who are similarly situated, although employed by various municipal corporations in the State of Washington, do not receive the same treatment and consideration under RCW 41.56 and that the classification contained in RCW 41.56.030-(6) does not rest upon a relevant purpose in light of RCW 41.56.430.

3. That the limiting language "cities with a population of 15,000 or more or law enforcement officers employed by the governing body of AA counties" defeats the declared purpose of the act and is therefore on its face unconstitutional.

4. That the said classification and limitation and application of the Public Employees' Collective Bargaining Act violates Article I, §12 of the State Constitution and the 14th Amendment of the United States Constitution.

5. That in addition, RCW 41.56.030(6) attempts to create another class among the general class of "law enforcement officers" within the State of Washington which is improper and unconstitutional in that Article I, §12 of the State Constitution requires that classification legislation must apply alike to all persons within a particular class and that the effect of the said limiting language in RCW 41.56.030(6) precludes such proper application.

6. That the remainder of RCW 41.56.030(6) and the other provisions of the statute are not invalid and unconstitutional and that the definition contained in the said statute following deletion of the above quoted limiting language, is constitutional.

7. That the members of plaintiff who fall within the definition of law enforcement officers as set forth in RCW 41.26.030 should henceforth have the benefits of the Public Employees' Collective Bargaining Act.

LET JUDGMENT ENTER ACCORDINGLY.

DONE IN OPEN COURT this 14th day of July, 1978.

/s/_____
Walter A. Stauffacher, Judge

IN THE SUPERIOR COURT OF THE
STATE OF WASHINGTON
IN AND FOR YAKIMA COUNTY

YAKIMA COUNTY DEPUTY SHERIFF'S ASSOCIATION,
a Washington non-profit corporation,

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CHARLES RICH AND GRAHAM TOLLEFSON,

Defendants.

NO. 77-2-00973-6

JUDGMENT

THIS MATTER having regularly come on for hearing before the undersigned judge of this court on the 10th day of May, 1978, pursuant to the Complaint for Declaratory Judgment on file herein, plaintiff appearing by and through its attorney of record, David A. Thorner of Thorner, Kennedy & Gano P.S. and the defendant appearing by and through its attorney of record, Jeffrey C. Sullivan, Prosecuting Attorney, and the court having considered testimony presented, the Stipulation Re Facts for Consideration by Court, the argument of counsel and the files and records herein, and the court having rendered its decision as declared from the bench on the 21st day of June, 1978, and the court hereby incorporating by said reference the contents of its opinion so delivered and being otherwise fully advised in the premises, the court having entered its Findings of Fact and Conclusions of Law, therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. That the following language contained in RCW 41.56.030 is hereby declared to be unconstitutional and of no further force or effect, namely to-wit:

> "Of cities with a population of fifteen thousand or more or law enforcement officers employed by the governing body AA counties".

2. That the rest and remaining provisions of RCW 41.56, the Public Employees' Collective Bargaining Act are not affected by this decision and shall remain in force and effect.

3. That defendant is hereby mandated and directed to comply with the Public Employees' Collective Bargaining Act (RCW 41.56) in regard to its future negotiations relative to working conditions with its law enforcement officers as defined in RCW 41.26.030.

4. That plaintiff shall recover its costs against defendant pursuant to the Cost Bill on file herein.

DONE IN OPEN COURT this 14th day of July, 1978.

/s/_____
Walter A. Stauffacher, Judge

THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION III

YAKIMA COUNTY DEPUTY SHERIFF'S ASSOCIATION,
a Washington non-profit corporation,
Respondent,

vs.

BOARD OF COMMISSIONERS FOR YAKIMA COUNTY,
WASHINGTON, presently composed of LES CONRAD,
CHARLES RICH AND GRAHAM TOLLEFSON,
Appellants.

NO. 3004-III

Division Three

COMMISSIONER'S RULING

Having considered appellants' motion to stay a judgment which finds a portion of RCW 41.56.030 unconstitutional and thereby requiring appellants to engage in collective bargaining with the respondent which may result in binding arbitration, and the record and file herein; and having heard the telephonic argument of counsel; and being of the opinion that appellants have failed to satisfy the criteria of *Kennett v. Levine*, 49 Wn.2d 605, 607, 304 P.2d 682 (1956) particularly in that should appellants be unsuccessful on appeal and the judgment stayed, a delay in the implementation of the judgment may result in irreparable injury to the respondent's members; but also being of the opinion that should the parties go to binding arbitration, the amount which may be found due resepond-

ent's members should not be paid pending a final determination of the appeal; it is ordered that the parties may proceed as permitted under the judgment; however, any award which may result from binding arbitration shall not be paid to respondent's members until the final determination of the appeal.

September 29, 1978.

/s/ MICHAEL J. KEYES
Commissioner

IN THE SUPREME COURT OF THE
STATE OF WASHINGTON

YAKIMA COUNTY DEPUTY SHERIFF'S ASSOCIATION,
a Washington non-profit corporation,
Respondent,

vs.

BOARD OF COMMISSIONERS FOR YAKIMA COUNTY,
WASHINGTON, presently composed of LES CONRAD,
CHARLES RICH AND GRAHAM TOLLEFSON,
Appellants.

No. 46019

EN BANC

BRACHTENBACH, J. — This case concerns the applicability of certain provisions of the Public Employees' Collective Bargaining Act (PECBA), RCW 41.56, to Yakima County deputy sheriffs. Some background is necessary to put the precise issue in context.

PECBA was enacted in 1967, as then-Governor Evans explained when executing a partial veto,

to promote the continued improvement of the re-

> lationship between public employers and their employees by providing a uniform basis for implementing the right of public employees to join labor organizations of their own choosing and to be represented by such organizations in matters concerning their employment relations with public employers.

Laws of 1967, Ex. Sess., ch. 108, p. 1891. In 1973, the Act was amended in part by the addition of provisions for mandatory mediation, fact-finding and binding arbitration for "uniformed personnel." RCW 41.56-.030(6); .430-.490; .905; .910.

"Uniformed personnel" are defined by RCW 41.56-.030(6) as "law enforcement officers . . . of cities with a population of fifteen thousand or more or law enforcement officers employed by the governing body of AA counties." An AA county has a population of 500,-000 or more. RCW 36.13.010. King County is currently this state's only AA county. A first class county has a population of 125,000 but less than 210,000. RCW 36.13.010. Yakima County fits in this category.

The Yakima County Deputy Sheriff's Association (deputy sheriffs) brought this declaratory action to challenge as unconstitutionally underinclusive RCW 41.56.030(6)'s classification of "uniformed personnel" by population. The trial court held that the deputy sheriffs' equal protection rights were violated by RCW 41.56.030(6)'s population classification. It then struck the challenged language from the statute, thereby ex-

tending the act to all law enforcement personnel. We accepted direct review under RAP 4.2.

The precise issue here, therefore, is whether the exclusion of non-AA county deputy sheriffs from PECBA's mandatory mediation, fact-finding and arbitration provisions violates the Equal Protection Clause of the federal Fourteenth Amendment and the Privileges and Immunities Clause of the state constitution (Const. art. 1, § 12). We hold that it does not and reverse.

We begin by ascertaining the challenged legislative classification. RCW 41.56.030(6) creates a class of "uniformed personnel", *i.e.*, law enforcement officers employed by AA counties or cities with at least a 15,000 population. Thus, the challenged class in this lawsuit is that of law enforcement officers statutorily designated as "uniformed personnel." Respondent deputy sheriffs are law enforcement officers outside this class.

The deputy sheriffs do not contend, nor did the trial court find, that the deputies are part of a suspect class or that they have a fundamental right to mandatory mediation, fact-finding and arbitration. Therefore, we examine the legislature's decision to classify certain law enforcement officers as "uniformed personnel" with minimal rather than strict scrutiny. *Nielsen v. Washington State Bar Ass'n*, 90 Wn.2d 818, 820, 585 P.2d 1191 (1978).

There is some confusion in our cases about the requirements of minimal scrutiny. In some cases, we seem only to examine whether the challenged classification rests upon grounds that reasonably constitute a distinction between those within and without the class. *State v. Ruzicka*, 89 Wn.2d 217, 231, 570 P.2d 1208 (1977; *In re Ballot Title for Initiative 333*, 88 Wn.2d 192, 194, 558 P.2d 248, 559 P.2d 562 (1977); *Gluck v. Employment Sec. Dep't*, 84 Wn.2d 316, 318, 525 P.2d 768 (1974). In other cases, we seem to be concerned only that the classification have some rational relation to the legislation's purpose. *Seattle v. Buchanan*, 90 Wn.2d 584, 592, 584 P.2d 918 (1978); *In re Patterson*, 90 Wn.2d 144, 149-50, 579 P.2d 1335 (1978); *Houser v. State*, 85 Wn.2d 803, 807, 540 P.2d 412 (1975). Finally, in some cases, we claim to use a "rational relationship" test, but then only look for "reasonable grounds." *Willard v .Department of Social & Health Serv.*, 91 Wn.2d 759, 763, 592 P.2d 1103 (1979); *Griffin v. Department of Social & Health Serv.*, 91 Wn.2d 616, 627, 590 P.2d 816 (1979); *Childers v. Childers*, 89 Wn.2d 592, 604-05, 575 P.2d 201 (1978).

In fact, three steps are involved when measuring the constitutionality of a legislative classification with minimal scrutiny. Underlying this scrutiny is the notion that the party challenging the classification has the heavy burden of overcoming the presumption of a

statute's constitutionality. *Aetna Life Ins. Co. v. Washington Life & Disability Ins. Guar. Ass'n*, 83 Wn.2d 523, 528, 520 P.2d 162 (1974).

First, does the classification apply alike to all members within the designated class? *In re George*, 90 Wn.2d 90, 94, 579 P.2d 354 (1978); *Everett v. Fire Fighters, Local 350*, 87 Wn.2d 572, 576, 555 P.2d 418 (1976). The answer is usually yes. *Washington Kelpers Ass'n v. State*, 81 Wn.2d 410, 421, 502 P.2d 1170 (1972); *Belancsik v. Overlake Memorial Hosp.*, 80 Wn.2d 111, 115, 492 P.2d 219 (1971); *State ex rel. Bacich v. Huse*, 187 Wash. 75, 81, 59 P.2d 1101 (1936). However, an affirmative answer to this narrow question does not itself mean that the challenged legislative classification will survive minimal scrutiny. *See* L. Tribe, *American Constitutional Law* 994-95 (1978); Tussman & tenBrock, *The Equal Protection of the Laws*, 37 Cal. L. Rev. 341, 345 (1949).

Second, does some basis in reality exist for reasonably distinguishing between those within and without the designated class? More specifically, do reasonable grounds exist to support the classification's distinction betweten those within and without the class? *Crane Towing, Inc. v. Gorton*, 89 Wn.2d 161, 174, 570 P.2d 428 (1977); *Clark v. Dwyer*, 56 Wn.2d 425, 435, 353 P.2d 941 (1960); *cert. denied*, 364 U.S. 932 (1961). The legislature's discretion in making classes is wide

and, when a statutory classification is challenged, facts are presumed sufficient to justify it. *Moran v. State*, 88 Wn.2d 867, 874, 568 P.2d 758 (1977). The burden is on the challenger to prove that the classification does not rest on a reasonable basis. *Haddenham v. State*, 87 Wn.2d 145, 150, 550 P.2d 9 (1976).

Third, does the challenged classification have any rational relation to the purposes of the challenged statute? *Washington v. Confederated Bands & Tribes of the Yakima Nation*, __ U.S., __, __, __ L. Ed. 2d __, 99 S.Ct. 740, 762 (1979). More specifically, does the difference in treatment between those within and without the designated class serve the purposes intended by the legislation? *Salstrom's Vehicles, Inc. v. Department of Motor Vehicles*, 87 Wn.2d 686, 694, 555 P.2d 1361 (1976); *Sonitrol Northtwest, Inc. v. Seattle*, 84 Wn.2d 588, 589-90, 528 P.2d 474 (1974); *see* 3 B. Schwartz, *A Commentary on the Constitution of the United States*, 500-04 (1968); *Developments in Law—Equal Protection*, 82 Harv. L. Rev. 1065, 1082-87 (1969). The challenger must do more than merely question the wisdom and expediency of the statute. *Brewer v. Copeland*, 86 Wn.2d 58, 61, 542 P.2d 445 (1975). The challenger must show conclusively that the classification is contrary to the legislation's purposes. *State v. Kent*, 87 Wn.2d 103, 110, 549 P.2d 721 (1976). Moreover, it must be remembered that equal

protection does not require a state to attack every aspect of a problem. Rather, the legislature is free to approach a problem piecemeal and learn from experience. *State v. Kent, supra* at 111.

With these presumptions and principles at hand, we now consider whether the deputy sheriffs' equal protection rights are offended by RCW 41.56.030(6)'s classification of certain law enforcement officers as "uniformed personnel." The deputy sheriffs do not claim that the classification applies differently to members of the designated class. RCW 41.56.030(6) applies evenly to all "uniformed personnel" as defined, and the statute, therefore, satisfies the test's first step.

The second step demands that reasonable grounds exist for distinguishing between those within and without the designated class. The only AA county in the state—and thus the only county employing "uniformed personnel"—is King County. Because King County is twice as large as any other county, it is presumed that a real difference exists between its law enforcement and public employee concerns and those of other smaller counties. The deputy sheriffs fail to overcome the presumption that sufficient facts support this distinction.

Moreover, county and city law enforcement agencies, even if both serve populations over 15,000, differ in function and structure. *Compare* RCW 35 *with*

RCW 36. For example, county sheriffs usually are elected, while police chiefs usually are appointed. *Compare* RCW 35.23.130 *with RCW* 36.16.030. However, in King County, the chief law enforcement officer is appointed. King County Code § 2.16.090. County deputy sheriffs are law enforcement officers in primarily rural unincorporated areas, while city police enforce the law in primarily urban areas. The roles, responsibilities and problems of county law officers truly can differ from those of city police officers, and RCW 41.56.030(6)'s classification of certain of those officers as "uniformed personnel" is reasonable. *Cf. Jenkins v. State*, 85 Wn.2d 883, 890, 540 P.2d 1363 (1975) (no reasonable ground for distinguishing counties from other governmental entities for tort claims limitation).

The third step asks whether the classification has any rational relation to the purposes of the challenged statute. The deputy sheriffs argue that RCW 41.56-.030(6)'s distinction between "uniformed personnel" and other law enforcement officers is irrational because it does not advance PECBA's goal of promoting a healthy employment relationship between public employers and public employees. In particular, the deputies contend that RCW 41.56.030(6)'s distinction is irrational in light of PECBA's general preamble, RCW

41.56.010,[1] and the preamble to the 1973 "uniformed personnel" amendments, RCW 41.56.430.[2]

The deputies' argument is not convincing. PECBA's general preamble never promises mediation, fact-finding and binding arbitration for all public employees, much less all law enforcement officers. The 1973 preamble's goal of "an effective and adequate alternative means of settling disputes" is limited specifically to "uniformed personnel" and has no application to the general class of all law enforcement officers.

Moreover, the deputy sheriffs' argument is really a complaint about the legislature's wisdom in classifying only law enforcement officers of AA counties and of cities with at least 15,000 populations as "uniformed personnel." They do not show conclusively why this classification does not serve PECBA's purpose of pro-

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[1] RCW 41.56.010 states:

"The intent and purpose of this chapter is to promote the continued improvement of the relationship between public employers and their employees by providing a uniform basis for implementing the right of public employees to join labor organizations of their own choosing and to be represented by such organizations in matters concerning their employment relations with public employers."

[2] RCW 41.56.430 states:

"The intent and purpose of this 1973 amendatory act is to recognize that there exists a public policy in the state of Washington against strikes by uniformed personnel as a means of settling their labor disputes; that the uninterrupted and dedicated service of these classes of employees is vital to the welfare and public safety of the state of Washington; that to promote such dedicated and uninterrupted public service there should exist an effective and adequate alternative means of settling disputes.

moting a healthy relationship between public employers and public employees.

In *State ex rel. O'Brien v .Towne*, 64 Wn.2d 581, 583, 392 P.2d 818 (1964), it was said:

> Classifications of cities, counties and other legal subdivisions of states upon the basis of population, have been almost universally upheld by the courts, both state and federal, when population bears any reasonable relation to the purpose and subject matter of the given legislation.

The classification of law officers of certain-sized counties and cities as "uniformed personnel" is related to the goals of PECBA. While strikes by public employees may offend public policy and may create serious problems, the legislature in its discretion may experiment with a solution and strike at the harm only where it thinks it most acute.

We hold that the exclusion of respondents, who are employed by a non-AA county, from PECBA's mandatory mediation, fact-finding and arbitration provisions is not an equal protection violation.

Reversed.

Brachtenbach, J.

WE CONCUR:

Utter, C. J.
Rosellini, J.
Wright, J.
Horowitz, J.
Dolliver, J.
Hicks, J.
Williams, J.
Hamilton, J. Pro Tem

UTTER, C. J. (Concurring)—I join in the judgment and analysis of the court, and concur solely to further explore a legal doctrine relied upon by the majority. In anlyzing the merits of the equal protection issue presented in this case, the majority states that "the party challenging the [legislative] classification has the heavy burden of overcoming the presumption of a statute's constitutionality." It is significant that the statute challenged in this case is, in fact, an economic statute, and that the case authority cited by the majority as support for this principle—*Aetna Life Ins. Co. v. Washington Life & Disability Ins. Guar. Ass'n*, 83 Wn.2d 523, 520 P.2d 162 (1974) — also concerned an equal protection challenge to an economic statute. The presumption of constitutionality applies with far greater force to economic statutes than to statutes which affect personal civil liberties.

The presumption of constitutionality has long been an established legal doctrine. As early as 1838, the United States Supreme Court declared that there is a "presumption" that a legislative body did not intend "to exercise or usurp any unconstitutional authority . . ." *United States v. Coombs*, 37 U.S. (12 Pet.) 72, 76, 9 L. Ed. 1004, 1006 (1838). We similarly observed in *State v. Bowen & Co., Inc.*, 86 Wn. 23, 27, 149 P. 330, 331 (1915), *appeal dismissed*, 242 U.S. 655, 61 L. Ed. 547, 37 S. Ct. 12 (1916), that, in determining the con-

stitutionality of a legislative enactment, "[e]very possible presumption is in favor of the validity of the statute . . ." This legal rule is founded upon the separation of powers principle, and reflects judicial deference for the actions of the legislative branch of government. *See Salstrom's Vehicles, Inc. v. Department of Motor Vehicles*, 87 Wn.2d 686, 690-91, 555 P.2d 1361, 1365 (1976); *State v. Bowen & Co., Inc., supra.*

The degree of presumptive validity to be accorded a legislative enactment varies according to the type of statute. For example, a presumption of constitutionality does not attach at all to statutes which affect civil rights that are protected under the First Amendment. *See, e.g., Adams v. Hinkle*, 51 Wn.2d 763, 768-69, 322 P.2d 844, 848 (1958). Indeed, this court has held that any statute which imposes restraints on First Amendment rights " 'comes into court bearing a *heavy* presumption against its constitutionality.' " *State v. Conifer Enterprises, Inc.*, 82 Wn.2d 94, 99, 508 P.2d 149, 152 (1973). The role of the presumption of constitutionality in equal protection cases is, however, more complex. A full definition of that role requires an examination of the judiciary's application of the presumption under both the traditional and "new" equal protection analyses.

In applying traditional equal protection analysis, the United States Supreme Court recognized that a presumption of constitutionality applies to legislative classifications. *See, e.g., Madden v. Kentucky*, 309 U.S. 83, 88, 84 L. Ed. 590, 593, 60 S. Ct. 406, 408 (1940); *Middleton v. Texas Power & Light Co.*, 249 U.S. 152, 157-58, 63 L. Ed. 527, 531, 39 S. Ct. 227, 229 (1919). The court made clear, however, that particular deference must be shown to legislative regulation of business and economic activity, and therefore that a particularly heavy presumption of constitutionality must be given to economic statutes. *See, e.g., Madden v. Kentucky, supra; Lindsley v. Natural Carbonic Gas Co.*, 220 U.S. 61, 78-79, 55 L. Ed. 369, 377, 31 S. Ct. 337, 340 (1911). *See also Developments in the Law—Equal Protection*, 82 Harv. L. Rev. 1065, 1083 (1969).

When the United States Supreme Court fashioned its new two-tier approach to equal protection in the 1960's, *see* G. Gunther, *Cases and Materials on Constitutional Law*, 658-59 (9th ed. 1975), it incorporated the presumption of constitutionality into its lower-level test of minimal scrutiny. The court explained that this minimal rationality test begins with the principle that "[s]tate legislatures are presumed to have acted within their constitutional power . . ." *McGowan v. Maryland*, 366 U.S. 420, 425, 6 L. Ed. 2d 393, 399, 81 S. Ct. 1101, 1105 (1961). This presumption of constitutionality does not apply at all under the upper-level test of strict scrutiny: statutes which affect constitutionally

protected fundamental rights or suspect classifications do not enjoy such a presumption of constitutionality. *See, e.g., Becker v. Levitt,* 489 F.2d 1087, 1091 (2nd Cir. 1973), *cert. denied,* 416 U.S. 985, 40 L. Ed. 2d 762, 94 S. Ct. 2388 (1974).

In fashioning the new two-tier test of equal protection, the court maintained its traditional deference for economic legislation. *See* G. Gunther, *supra* at 667. Accordingly, the court refined the minimal rationality test so as to apply a particularly heavy presumption of constitutionality to statutes affecting economic matters. *See, e.g., McGowan v. Maryland,* 366 U.S. 420, 425-26, 6 L. Ed. 2d 393, 399, 81 S. Ct. 1101, 1105 (1961). This heavier presumption of constitutionality for economic statutes is also evident in recent equal protection decisions of the United States Supreme Court. In *New Orleans v. Dukes,* 427 U.S. 297, 49 L. Ed. 2d 511, 96 S. Ct. 2513 (1976), the court considered an equal protection challenge to a New Orleans ordinance which prohibited push-cart operators from carrying on a vending business in the French Quarter of the city unless they had operated in the Quarter for at least 8 years. A push-cart operator who had carried on a vending business in the Quarter for only 2 years challenged the ordinance on equal protection grounds. After first identifying the ordinance as "solely an economic regulation", the court held that the ordinance did not vio-

late equal protection, and explained:

> When local economic regulation is challenged solely as violating the Equal Protection Clause, this Court consistently defers to legislative determinations as to the desirability of particular statutory discriminations. . . . Unless a classification trammels fundamental personal rights or is drawn upon inherently suspect distinctions such as race, religion, or alienage, our decisions *presume the constitutionality* of the statutory discriminations and require only that the classification challenged be rationally related to a legitimate state interest. States are accorded wide latitude in the regulation of their local economies under their police powers . . .

(Italics ours.) *New Orleans v. Dukes,* 427 U.S. 297, 303, 49 L. Ed. 2d 511, 516-17, 96 S. Ct. 2513, 2516-17 (1976). The court also took the opportunity to expressly overrule its earlier decision in *Morey v. Doud,* 354 U.S. 457, 1 L. Ed. 2d 1485, 77 S. Ct. 1344 (1957), "the only case in the last half century to invalidate a wholly economic regulation solely on equal protection grounds . . ." *New Orleans v. Dukes,* 427 U.S. 297, 306, 49 L. Ed. 2d 511, 518, 96 S. Ct. 2513, 2518 (1976).

In *Lehnhausen v. Lake Shore Auto Parts Co.,* 410 U.S. 356, 35 L. Ed. 2d 351, 93 S. Ct. 1001 (1973), *rehearing denied,* 411 U.S. 910, 36 L. Ed. 2d 200, 93 S. Ct. 1523 (1973), the court rejected an equal protection challenge to the Illinois personal property taxation scheme. Quoting from its earlier decision in *Madden v. Kentucky, supra,* the court declared that in taxation cases, "[t]here is a presumption of constitutionality

which can be overcome 'only by the most explicit demonstration that a classification is a hostile and oppressive discrimination against particular persons and classes.' " *Lehnhausen v. Lake Shore Auto Parts Co.*, 410 U.S. 356, 364, 35 L. Ed. 2d 351, 358, 93 S. Ct. 1001, 1006 (1973). The decisions of the United States Supreme Court thus recognize that, in according presumptive validity to legislative enactments, a stronger presumption of constitutionality attaches to statutes regulating economic matters than to statutes affecting personal civil liberties. *Cf. Usery v. Turner Elkhorn Mining Co.*, 428 U.S. 1, 15, 22-24, 49 L. Ed. 2d 752, 766, 770-71, 96 S. Ct. 2882, 2892, 2895-96 (1976) (holding that, in the due process context, a far stronger presumption of constitutionality applies to economic statutes than to statutes affecting personal civil liberties such as the right to retain custody of one's children, even when these civil liberties do not rise to the status of constitutionally protected "fundamental rights").

The particularly heavy presumption of constitutionality accorded economic statutes is also apparent in the decisions of this court. In *Aetna Life Ins. Co. v. Washington Life & Disability Ins. Guar. Ass'n*, 83 Wn.2d 523, 528, 520 P.2d 162, 166 (1974), we considered an equal protection challenge to the Life and Disability Insurance Guaranty Association Act. Upholding the constitutionality of the act, we stated that:

> [One] limitation upon our exercise of judicial review is the heavy presumption of constitutionality accorded a legislative act. . . . A statute's alleged unconstitutionality must be proven "beyond all reasonable doubt" before it may be struck down.

Subsequently, in *Salstrom's Vehicles, Inc. v. Department of Motor Vehicles, supra*, we explained that a particularly heavy presumption of constitutionality was applied in *Aetna Life* precisely because the challenged statutory provisions concerned economic matters. Quoting from the discussion of the presumption of constitutionality in *Aetna Life*, we explained in *Salstrom's Vehicles* that the principles involved were "the principles applicable to constitutional attacks on economic and business regulations". *Salstrom's Vehicles, Inc. v. Department of Motor Vehicles*, 87 Wn.2d 686, 690, 555 P.2d 1361, 1365 (1976). In *Salstrom's Vehicles*, as in *Aetna Life*, we applied the heavy presumption of constitutionality to a statute regulating business activities, and concluded that the statute conformed to equal protection requirements.

The challenged statute in the instant case concerns mandatory mediation and arbitration for public employees and therefore is properly classified as a statute regulating economic matters. *Cf. Usery v. Turner Elkhorn Mining Co.*, 428 U.S. 1, 15, 49 L. Ed. 2d 752, 766, 96 S. Ct. 2882, 2892 (1976). The decision of the court today reflects the principle that in equal protection

cases, a particularly heavy presumption of constitutionality is reserved for economic statutes.

UTTER, C. J.
I concur, Hicks, J.

THE SUPREME COURT OF WASHINGTON
YAKIMA COUNTY DEPUTY SHERIFF'S ASSOCIATION,
Respondent,
v.
THE BOARD OF COMMISSIONERS FOR YAKIMA COUNTY, et al,
Appellants.
No. 46019

ORDER DENYING MOTION FOR RECONSIDERATION

The Court having unanimously decided that the respondent's motion for reconsideration should be denied,

It is order that the motion be and it hereby is denied.

Dated this 11th day of January, 1980.

ROBERT F. UTTER
Chief Justice

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

YAKIMA COUNTY DEPUTY SHERIFF'S ASSOCIATION,
a Washington non-profit corporation,
Appellant,
vs.
BOARD OF COMMISSIONERS FOR YAKIMA COUNTY, WASHINGTON, et al
Appellees.
No. 46019

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

NOTICE IS HEREBY GIVEN that the Yakima County Deputy Sheriff's Association, the Appellant above-named, hereby appeals to the Supreme Court of the United States from the final judgment of the Supreme Court of the State of Washington, which reversed the judgment of the trial court, entered in this action on January 11, 1980.

This appeal is taken pursuant to 28 U.S.C. § 1257-(2).

DATED this 25th day of February, 1980.

THORNER, ALMON, KENNEDY & GANO P.S.,
Attorneys for Appellant.

By:_____
David A. Thorner

The Chestnut Legal Building
101 South Twelfth Avenue
P. O. Box 1410
Yakima, Washington 98907
(509) 575-1400

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

YAKIMA COUNTY DEPUTY SHERIFF'S ASSOCIATION, a Washington non-profit corporation,

Appellant,

vs.

BOARD OF COMMISSIONERS FOR YAKIMA COUNTY, WASHINGTON, et al

Appellees.

STATE OF WASHINGTON, County of Yakima, *ss.*

No. 46019

AFFIDAVIT OF SERVICE BY MAIL

The undersigned, being first duly sworn, on oath, does depose and say: That affiant is a citizen of the United States and of the State of Washington, over the age of eighteen years, not a party interested in the above litigation, and competent to be a witness in said cause. That affiant has, on the 25th day of February, 1980, mailed a copy of the Notice of Appeal to the Supreme Court of the United States to:

Honorable Jeffrey C. Sullivan, Prosecuting Attorney, 329 Courthouse, Yakima, Washington 98901

Honorable Slade Gorton, Attorney General, 101 Insurance Building, Olympia, Washington 98504

Richard Heath, Esq., 101 Insurance Building, Olympia, Washington 98504

Maureen J. Dightman, Esq., 4719 Brooklyn Ave. N.E., Caller No. 5373, Seattle, Washington 98105

Robert E. Beaty, Esq., 1812 Eskridge Building, Olympia, Washington 98501

James K. Pharris, Esq., 101 Insurance Building, Olympia, Washington 98504

/s/_____
Linda Lighty

SUBSCRIBED AND SWORN to before me this 25th day of February, 1980.

/s/_____
Tobi L. Klem
NOTARY PUBLIC in and for the State of Washington, residing at Yakima.